IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36904 of 2007(R)

PETITIONER:

K.H.MOHAMMED ALI,
ELLICKAL ENTERPRISES,
KALAMASSERY.

BY ADV. SRI.C.J.XAVIER

RESPONDENTS:

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1. SALES TAX OFFICER,
1ST CIRCLE, KALAMASSERY.

2. THE DEPUTY COMMISSIONER(APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

3. THE DEPUTY TAHSILDAR(R.R),
KANAYANNUR TALUK, ERNAKULAM.

BY GOVT. PLEADER SRI C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 36904 of 2007

Dated: December 13, 2007

JUDGMENT

Along with Ext.P4 appeal petitioner has filed Ext.P5 application for stay and Ext.P8 order dated 7.112007 was passed granting the petitioner stay on condition that the petitioner remits Rs.1,50,000/- and furnishes bank guarantee for the balance tax. It is challenging this order that the writ petition has been filed. It is submitted referring to Ext.P11 dated 10.12.2007 that the appeal itself is now posted to 18.12.1007.

2. On merits counsel for the petitioner contends that the petitioner is entitled to exemption and therefore no tax is payable. This is a matter for the Appellate Authority to decide and for the present I am only concerned with Ext.P8 order of conditional stay and the correctness thereof.

3. A reading of Ext.P8 shows that the Appellate Authority has referred to the contentions of the appellant and it is on that basis that conditional stay has been granted by the Appellate Authority in

exercise of its discretion and, that too, taking into account the contentions that were raised by the petitioner. I do not see any illegality in the order that is passed.

Writ petition fails and it is dismissed.

ANTONY DOMINIC, JUDGE

mt/-